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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2018-045156

13 **Hung The Vu, M.D.**
14 **329 N. 1st Street, Apt. 213**
San Jose, CA 95110-2482

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 31014,**

Respondent.

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18
19 **PARTIES**

20 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
22 (Board).

23 2. On or about May 3, 1976, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 31014 to Hung The Vu, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on June 30, 2021, unless renewed.
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JURISDICTION

1 3. This Accusation is brought before the Board, under the authority of the following
2 laws. All section references are to the Business and Professions Code (Code) unless otherwise
3 indicated.

4 4. Section 2004 of the Code states:

5 The board shall have the responsibility for the following:

6 (a) The enforcement of the disciplinary and criminal provisions of the Medical
7 Practice Act.

8 (b) The administration and hearing of disciplinary actions.

9 (c) Carrying out disciplinary actions appropriate to findings made by a panel or
an administrative law judge.

10 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion
11 of disciplinary actions.

12 (e) Reviewing the quality of medical practice carried out by physician and
surgeon certificate holders under the jurisdiction of the board.

13 (f) Approving undergraduate and graduate medical education programs.

14 (g) Approving clinical clerkship and special programs and hospitals for the
15 programs in subdivision (f).

16 (h) Issuing licenses and certificates under the board's jurisdiction.

17 (i) Administering the board's continuing medical education program.

18 5. Section 820 of the Code states:

19 Whenever it appears that any person holding a license, certificate or permit
20 under this division or under any initiative act referred to in this division may be
unable to practice his or her profession safely because the licentiate's ability to
21 practice is impaired due to mental illness, or physical illness affecting competency,
the licensing agency may order the licentiate to be examined by one or more
22 physicians and surgeons or psychologists designated by the agency. The report of the
examiners shall be made available to the licentiate and may be received as direct
evidence in proceedings conducted pursuant to Section 822.

23 6. Section 821 of the Code provides that the licentiate's failure to comply with an order
24 issued under section 820 shall constitute grounds for the suspension or revocation of the
25 licentiate's certificate or license.

26 7. Section 822 of the Code states:

27 If a licensing agency determines that its licentiate's ability to practice his or her

profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

CAUSE FOR DISCIPLINE

(Failure to Submit to a Physical and/or Mental Evaluation)

8. Respondent Hung The Vu, M.D. is subject to disciplinary action under sections 820 and 821 of the Code in that Respondent failed to submit to a physical and/or mental evaluation as more fully described herein below.

9. On or about June 15, 2018, the Board received a complaint regarding Respondent from White Blossom Care Center, a skilled nursing facility in San Jose, California. The complaint alleged that Respondent, who was a resident¹ at the skilled nursing facility, was attempting to treat other residents at the skilled nursing facility.

10. On September 16, 2019, as part of the Board's investigation, Respondent was interviewed by the Board's investigator regarding the complaint. At the end of the interview, Respondent agreed to a mental and physical examination to determine whether Respondent's ability to practice medicine safely is impaired due to a mental or physical illness. Respondent signed both a Voluntary Agreement for Mental Examination and Physical Examination. Both agreements inform Respondent that failure to comply with the agreements to submit to the examinations shall constitute grounds for disciplinary action.

11. On January 21, 2020, Respondent agreed to an evaluation with Dr. Jeffrey Javerbaum, a neurologist, scheduled for March 20, 2020 in Palo Alto, California. On March 16,

¹ Respondent was self-admitted on June 7, 2018 due to increased weakness and worsening Parkinson's disease.

1 2020, this evaluation was canceled due to the shelter-in-place order issued in response to COVID-
2 19.²

3 12. On July 21, 2020, Respondent contacted the Board investigator and stated that he
4 would schedule an evaluation with Dr. Javerbaum. However, Respondent thereafter failed to
5 respond to the investigator's emails or Dr. Javerbaum's calls to schedule an evaluation.

6 13. On July 27, 2020, the Board investigator contacted Respondent by email again to
7 schedule an evaluation. Respondent did not respond.

8 14. The Board investigator contacted Respondent again on August 3, August 13, August
9 19, August 20, August 25, September 16, and September 23, 2020 in attempts to schedule an
10 appointment for Respondent to be evaluated by Dr. Javerbaum. Respondent failed to respond to
11 any of the Board investigator's emails and telephone calls.

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13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Medical Board of California issue a decision:

16 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 31014,
17 issued to Hung The Vu, M.D.;

18 2. Revoking, suspending or denying approval of Hung The Vu, M.D.'s authority to
19 supervise physician assistants and advanced practice nurses;

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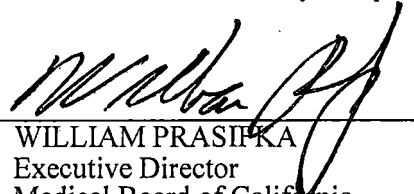
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26 _____
27 ² The "shelter in place" order issued on March 16, 2020, impacted six Bay Area counties,
28 including Santa Clara County, and required all residents of the six counties to remain home as
much as possible with limited exceptions to slow the spread of the COVID-19 virus. Palo Alto is
in the county of Santa Clara.

1 3. Ordering Hung The Vu, M.D., if placed on probation, to pay the Board the costs of
2 probation monitoring; and

3 4. Taking such other and further action as deemed necessary and proper.

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5 DATED: **MAY 20 2021**



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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